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June 30, 2004

RECEIVED

The Secretary  
Federal Communications Commission  
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Washington, DC 20554

JUN 30 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**RE: NBC Universal, Inc.  
MB Docket No. 03-15  
Request for Temporary Waiver of DTV Simulcast Rule  
HDTV 2004 Olympic Programming**

Dear Madam Secretary:

NBC Universal, Inc., which indirectly controls the NBC Television Network, ("NBC"), hereby requests, on behalf of all NBC-affiliated stations, <sup>1</sup> a waiver of Section 73.624(f) of the Commission's Rules (the "Simulcast Rule") in order to deliver to the public unique high-definition digital coverage of the historic 2004 Athens Olympics.

In 2002, NBC broadcast a separate high-definition digital feed of the Salt Lake City Olympics. The digital feed was distinct from NBC's traditional analog coverage of the events. Because the Olympics are quintessential must-see TV, this coverage not only offered viewers unique Olympic programming but also provided many their first real incentive to make the transition to digital television.

In 2004, NBC intends to bring, for the first time, this unique digital coverage to the Summer Olympics. As with NBC's high-definition coverage of the 2002 Salt Lake City Olympic Games, this high-definition coverage will be distinct from NBC's analog Olympic programming. It will include separate announcers, separate video and comprehensive coverage of all major competitions, as well as the Opening and Closing Ceremonies. NBC's HDTV Olympics programming will be available 24 hours per day

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<sup>1</sup> NBC intends this waiver request to apply to NBC affiliates as well as NBC stations that are owned and operated by NBC's parent company, General Electric Company ("GE"). To the extent necessary, NBC Telemundo License Co., which is or controls the licensees of all GE-owned and operated stations, joins this request.

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for each of the 17 days of the Olympics. All together, NBC's HDTV coverage is expected to total nearly 400 hours of Olympic programming.

Highlights of this unique high-definition digital coverage are expected to include:

- On August 13, the Games' Opening Ceremony, as well as (for certain time zones) a high-definition look back at the 2002 Games.
- On August 14, a high-definition re-airing of the four-hour Opening Ceremony, so that viewers who may have missed the initial airing will have an opportunity to view the historic return to Athens of the Olympic Games.
- From August 15 through the close of the Games, competition coverage of the the "major" sports in the Summer Olympics — track & field, swimming, gymnastics, diving and basketball medal round. Each day, the original coverage will last six or eight hours depending on the events that day, and that coverage will be repeated until 4 a.m. ET the following day.
- Beginning the evening of August 29, a high-definition broadcast of the Games' closing ceremonies, which will be reaired on a continuous loop until noon ET the following day.

As with the Salt Lake City Olympiad, the transmission of this unique HDTV feed will result in multiple public interest benefits. First, the programming will provide additional coverage of the historic 2004 Athens Olympics. Dozens of U.S. athletes have worked for years to represent the United States in these Games. NBC HDTV coverage will enable the athletes' home communities to see more of what their sons and daughters have accomplished.

Second, NBC (with the support of Sony, which is sponsoring the HDTV coverage) will be promoting the existence of true HDTV coverage of the Olympics prior to the Games and during the Games throughout the standard definition broadcasts. The HDTV programs will be listed on the special NBC Olympics web site — [www.nbcolympics.com](http://www.nbcolympics.com) — and many TV Guide listings. Because the Olympics are such a draw for the U.S. television public, these promotions will help to drive the most important step of the Commission-led transition to digital television — persuading the consumer to make his or her initial investment in digital television equipment.

There is one critical difference between the Athens and Salt Lake City HDTV coverage. Since 2002, the Commission has implemented the Simulcast Rule, which now requires all television stations to air over their digital signal 75% of the programming available on their analog signal.<sup>2</sup> The stated intent of the Rule was to

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<sup>2</sup> See 47 C.F.R. §73.624(f) (increasing simulcast requirement to 75% as of April 1, 2004).

ensure that the termination of analog service (in 2006 or later) did not result in a wholesale loss of programming.<sup>3</sup> That purpose is irrelevant to Olympic broadcasts, which will terminate prior to the end of August 2004. Nonetheless, the language of the Rule arguably limits NBC stations from airing more than 6 hours per day of non-simulcast Olympic programming, which means that many will not be able to air any significant part of nearly 400 unique hours of HDTV Olympic coverage over the 17 days of the Olympics.

In order to enable all NBC-affiliated stations to have the option to air as much of the HDTV feed as they think best, NBC hereby requests, on behalf of all NBC-affiliated stations, that the Commission waive, from August 13 through August 30, any application of the Simulcast Rule to those stations that choose to air NBC's HDTV Olympic programming feed in lieu of a digital simulcast of the station's analog programming.

The Commission's own actions underscore that the requested waiver poses minimal risk to the public interest. First, in the Commission's most recent digital television periodic review, the Commission asked whether it still "should retain" the Rule.<sup>4</sup> On that point, the Commission wondered whether "the simulcasting requirement [is] causing broadcasters to forego creative uses of digital technology."<sup>5</sup> The proposed programming constitutes the sort of innovative programming that the Commission is concerned is in danger from a rigid application of the Rule.

Second, as high definition coverage of the 2004 Olympics airs for less than three weeks -- from August 13 to August 30, 2004 -- the requested waiver poses little risk to any remaining purpose of the Rule.<sup>6</sup> NBC affiliated stations are not seeking to deny the public access to attractive digital programming by failing to simulcast their analog programming during this period. To the contrary, NBC and its affiliated stations will be offering programming that will expand the public's interest in digital. As for the Rule's

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<sup>3</sup> See *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rule Making, MB Docket No. 03-15 at ¶ 65 (released January 27, 2003).

<sup>4</sup> See *id.* at ¶ 66.

<sup>5</sup> *Id.*

<sup>6</sup> See *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Order, MB Docket No. 03-15 (granting Twin Cities Public Television temporary waiver until final result reached in Rule proceeding) (released October 31, 2003); *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Order, MB Docket No. 03-15 (released October 31, 2003) (granting South Texas Public Broadcasting System four-month waiver of Rule for technical reasons).

stated intent to protect against the termination of analog service, the proposed waiver will expire in August 2004, which is many months prior to any such termination.

Third, the proposed temporary waiver will convey substantial public interest benefits. For many stations, the effect of the Rule will be to deny viewers access to the unique NBC HDTV feed. In turn, non-transmission of the HDTV coverage by the local NBC owned and operated station or affiliate will result either in reduced public incentive to make the personal transition to digital television or, among those who may have purchased sets with digital tuners to access this coverage, unhappy consumers. With the waiver, however, all local stations can increase their viewers' effective programming choices (and consumer incentive to invest in digital) by airing this innovative high-definition programming.<sup>7</sup>

For all the foregoing reasons, NBC respectfully requests that the Commission grant the proposed temporary waiver. Because NBC affiliated stations will be making programming decisions for the relevant time period in the next two to three weeks, NBC also respectfully requests that the Commission grant this request as soon as reasonably possible.

Please direct any communications regarding this submission to the undersigned.

Respectfully submitted,

NBC UNIVERSAL, INC.

NBC TELEMUNDO LICENSE CO.

By: F. William LeBeau  
F. William LeBeau

Their Senior Regulatory Counsel and  
Assistant Secretary

cc: Rick C. Chesson, Associate Bureau Chief, DTV Task Force, Media Bureau

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<sup>7</sup> See *id.* (approving temporary waiver of Rule to enable KTWU to air "innovative high-definition programming" independent of station's analog feed).